4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0116; Notice 1]

Mercedes-Benz USA, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Mercedes-Benz AG (MBAG) and Mercedes-Benz USA, LLC (MBUSA), (collectively, "Mercedes-Benz"), have determined that certain model year (MY) 2020–2021 Mercedes-Benz GLE and GLS Class motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 Kilograms (10,000 pounds) or Less*. Mercedes-Benz filed a noncompliance report dated October 30, 2020. Mercedes-Benz subsequently petitioned NHTSA on November 16, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Mercedes-Benz's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.

- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at https://www.regulations.gov/. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at https://www.regulations.gov by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Kerrin Bressant, Compliance Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-1110.

SUPPLEMENTARY INFORMATION:

I. Overview: Mercedes-Benz has determined that certain MY 2020–2021 GLE and GLS Class motor vehicles do not fully comply with the requirements of paragraph S4.3(c) of FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 Kilograms (10,000 pounds) or Less* (49 CFR 571.110). Mercedes-Benz filed a noncompliance report dated October 30, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Mercedes-Benz subsequently petitioned NHTSA on November 16, 2020, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Mercedes-Benz's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 22,439 MY 2020–2021 Mercedes-Benz GLE350, GLE450, GLE580, GLS450, and GLS580 motor vehicles, manufactured between July 7, 2018, and October 16, 2020, are potentially involved.

III. Noncompliance: Mercedes-Benz explains that the noncompliance is that the subject vehicles are equipped with a vehicle placard affixed to the driver's side B-pillar of the vehicle that erroneously overstates maximum permissible cold tire pressure and therefore, does not fully meet the requirements specified in paragraph S4.3(c) of FMVSS No. 110. Specifically, the

vehicle placard overstates the maximum permissible cold tire pressure as 320 kPa, when it should state a maximum cold tire pressure of 300 kPa.

IV. Rule Requirements: Paragraph S4.3(c) of FMVSS No. 110 includes the requirements relevant to this petition. Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in S4.3(a) through (g), and may show, at the manufacturer's option, the information specified in S4.3(h) and (i), on a placard permanently affixed to the driver's side B-pillar. This information shall be in the English language and conform in color and format, not including the border surrounding the entire placard, as shown in the example set forth in Figure 1 in this standard. At the manufacturer's option, the information specified in S4.3 (c), (d), and, as appropriate, (h) and (i) may be shown, alternatively to being shown on the placard, on a tire inflation pressure label which must conform in color and format, not including the border surrounding the entire label, as shown in the example set forth in Figure 2 in this standard.

V. Summary of Mercedes-Benz's Petition: The following views and arguments presented in this section, "V. Summary of Mercedes-Benz's Petition," are the views and arguments provided by Mercedes-Benz. They have not been evaluated by the Agency and do not reflect the views of the Agency. Mercedes-Benz describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Mercedes-Benz submitted the following reasoning:

1. For the vehicles at issue in this petition, the placard lists the maximum tire inflation pressure as 320 kPa while the tire sidewall indicates that the maximum tire inflation pressure is 300 kPa. The tire pressure information located on the inside of the gas tank flap also indicates that the maximum tire pressure is 320 kPa. Mercedes-Benz asserts the difference in information between the tire sidewall and what is included on the vehicle and placard does not present any risk of over-inflation since, per the tire manufacturer, the tires were actually designed to a maximum permissible inflation pressure of 350 kPa.

2. Mercedes-Benz claims there is no risk of tire overloading here, even if the consumer were to inflate the tires based on the 320 kPa inflation pressure listed on the placard or on the gas tank flap. The tire manufacturer in this instance, Michelin, has confirmed that the Primacy Tour A/S tires that are equipped on the subject vehicles are designed and manufactured to withstand a maximum tire pressure of 350 kPa, which is even higher than what is listed on the placard or on the tire sidewall. The supplier has confirmed that there are no effects on vehicle performance and there would be no adverse safety consequences if the tires were inflated to the 320 kPa limit indicated on the placard or to the 300 kPa limit listed on the sidewall. Mercedes-Benz says the tires otherwise meet or exceed all applicable FMVSS performance requirements.
3. Mercedes-Benz contends that in similar situations when evaluating the effect of a noncompliance with FMVSS No. 110, the Agency has recognized that slight discrepancies in the listed tire pressure and deviations in the information listed in the placard do not have a consequential effect on motor vehicle safety. For example, the Agency granted a petition where the placards incorrectly identified the size of the tires installed on the vehicles. Mercedes-Benz says that the Agency reasoned that the noncompliance was inconsequential because, among other reasons, the tires installed on the vehicles are appropriate to handle the vehicle's maximum loads when inflated to the maximum tire pressure. *See* Chrysler Group, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 38443 (June 26, 2013). Mercedes-Benz claims that this has also been the Agency's rationale when specific information was missing from the vehicle placard. *See* General Motors, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 84 FR 25117 (May 30, 2019) ("vehicles are equipped with the appropriate matched spare tire and rim combination, and that when properly mounted on the subject vehicles, would allow the vehicles to be operated safely within the manufacturer's specified performance and loading limits.") Further, Mercedes-Benz

states, the Agency has recognized that the maximum tire inflation pressure indicated on the tire sidewall have somewhat limited safety value and that NHTSA ultimately decided to retain maximum inflation pressure labeling requirements simply "as an aid in preventing over-inflation." *See* Grant of Petition of Michelin North America, 70 FR 10161 (March 2, 2005).

4. Mercedes-Benz asserts that there is no risk of over-inflation in this case because the tires have been designed and engineered to a higher maximum inflation pressure. The tires are sufficiently robust to accommodate the additional 20 kPa of pressure should the consumer rely on the information listed on the placard or under the gas tank flap. According to Mercedes-Benz, there is also no risk of under pressurizing the tire if the consumer relied upon the value listed on the tire sidewall because 300 kPa is also a sufficient maximum pressure for the tires installed on these vehicles. Inflating the tires at either 300 kPa or 320 kPa is appropriate for the GVWR of the vehicle. Inflating the tires to the pressure listed on either the tire sidewall or the value listed on the placard would not impact the operation of the tire pressure monitoring system, and the vehicle's load-carrying capacity would not be impacted or reduced if the tire is inflated to 320 kPa (up to 350 kPa) if the consumer followed the inflation level on the placard or under the gas tank flap. Overall, from a vehicle performance perspective, 20 kPa in tire pressure difference is of no consequence, particularly where, as here, there is no effect on vehicle performance or load capacity.
5. Mercedes-Benz says that owners may seek guidance on the appropriate tire pressure inflation value through its Roadside Assistance program which is available 24 hours a day and complimentary during the vehicle warranty period. Alternatively, any Mercedes-Benz customer may obtain information on tire pressure and other service-related information from trained representatives by calling the Mercedes-Benz Customer Assistance Center. All of the remaining information on the vehicle placard is accurate,

including the vehicle loading capacity and tire size and dimensions, which further confirms that the vehicle is not susceptible to overloading even if the tires are inflated to 320 kPa.

6. Mercedes-Benz cites NHTSA as saying "historically granted petitions for inconsequentiality for inaccurate tire placards where the grantee has supplied sufficient reasoning to support… a conclusion [that there is no adverse safety impact."] *See* Kia Motors, Inc., Grant of Petition for Decision of Inconsequential Noncompliance, 85 FR 39676 (July 1, 2020).

Mercedes-Benz concludes by again contending that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Mercedes-Benz no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Mercedes-Benz notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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